

A England. . . Bishops

LETTER

TO

MY LORDS THE BISHOPS,

ON OCCASION OF THE PRESENT

BILL for the PREVENTING of ADULTERY.

TO LAUGH WERE WANT OF GOODNESS AND OF GRACE.
POPE.

LONDON:

PRINTED FOR J. DODSLEY, IN PALL-MALL.

M. DCC. LXXIX.

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MY LORDS THE BISHOPS

ON OCCASION OF THE

Bill for the Prevention of Adultery



NOTICE OF THE WANT OF BOOKS AND OF CASH

NOTE

LONDON

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L E T T E R, &c.

M Y L O R D S,

I ASSUME the liberty, my good Lords, to observe, that there can be no way of preventing any particular crime, but by either taking away the *motive of its commission* (if that can be done) or by superinducing *other motives* of force to counteract and controul the *former*. The motives to a criminal amour cannot be taken away: they are in the constitution of the parties. But permit

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me to enquire how far my Lord of Landaff's Bill for the prevention of Adultery operates towards the creation of any *new* motive of force to controul. *It prohibits marriage between the criminal parties.* If, indeed, the expectation of future marriage shall be considered as even an *accessory* motive to the commission of the crime, then the taking off of that accessory may be of use. If this motive be considered as growing out of worldly prudence, or ambition, the *restraint* will be calculated to meet the *cause of offence*, but if out of love and attachment, it will be less relative and less effectual.

Your Lordships say, and say truly, that the age is become exceedingly *profligate*; and this you declare to be the ground of your procedure; but the accessory motives here mentioned are

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not,

not, properly speaking, the motives of a profligate age. *Worldly prudence*, or *personal attachment*, may prevail equally in any age whatever. That which we might expect from your Lordships, and which the time requires, is, that your Lordships should meet the prevailing profligacy with some relative and adequate restraint. But how does the present Bill apply? The lady of the times, my good Lords, looks to *the present man*, and not the *future husband*; and the gentleman seeks nothing less than a *future wife*, in the *profligate wanton* he dishonours. Both the parties depend on privacy and concealment, and apprehend divorce as an *evil*, not a *good*; an evil, however, not attended with the same shame as heretofore, and therefore more lightly hazarded: the powerful re-

strait of shame, the profligacy of the age has almost wholly done away.

Under these circumstances, then, my Lords, to prohibit marriage between the offending parties, is not to apply the remedy to the disease. Marriage is an event which we cannot suppose to have been in their contemplation; and if the *capacity* and *hope* of future marriage did not act as a motive to encourage, how can we possibly suppose that the incapacity proposed will operate as a penalty to restrain?

There really appears, my Lords, if I may be allowed the freedom of thinking so, too much of pastoral simplicity, in supposing that the wantons of the age look up, amid their unholy agitations, to the marriage rite, and mean ultimately to purify their passions, and legalize their love.

Your

Your Lordships seem to me (I speak with great diffidence) never to have ventured deep enough into the speculations of sin: a little more profane knowledge might have acquainted your Lordships, that a Bill *compelling*, not *prohibiting*, the marriage of the parties, would be the most likely method of meeting the evil, and of producing an effectual reform. The gentleman, under such a provision, might fearfully apprehend a *future wife* in a *present wanton*, and feel, by anticipation, on his own forehead, those imputed dishonours which he was preparing for another; and the lady might be equally startled at the image of a *dull husband* in the *gay gallant*, and dread the consequences of a future alliance with the witness of her debauches. Or let us grant, as indeed we must grant, that these offences would

not, even under these terrors, be wholly prevented ; yet would the offending parties be frequently caught in this legal net, and held forth, as in the loves of Mars and Venus, for the sport, and scorn, and warning of every beholder.

~~But I am mingling, I am afraid, a little too much of the ludicrous. To assume, then, a graver tone.~~ I am willing to allow, my Lords, that there may be one case in a hundred wherein the parties are mutually influenced by real love and personal attachment, which is the case to which my Lord of Landaff's Bill seems more particularly to apply ; yet this, my Lords, is the only case which seems to admit of some apology and excuse. The prohibition of marriage, in this case, may be certainly considered as a *penalty* ; but whether it is a penalty calculated

culated to *reform*, may be worth your Lordships wisdom to consider. Do your Lordships think that any form of words, or black letter, can repeal the affections of the mind, and dissolve the attachments of nature? No, my Lords, the criminal process will be precisely the same, in spite of legal inconvenience; and how far it may become your Lordships to deprive these *votaries*, of legal sanctions subsequent to divorce, and leave them, for the rest of their lives, in the impure state of nature, is for your good Lordships to consider.

But my Lord of Landaff's Bill goes further, and contains a provision, the purpose of which I can by no means discover; it not only prohibits marriage between the offending parties, but enacts that the party, on ac-

count of whose offence the divorce is obtained, shall not marry with any person whatever during the space of twelve calendar months. The provision is general, and extends alike to husband and to wife ; but the *use* is, I presume, chiefly for the lady. But with respect even to *her*, I find myself greatly at a loss. If she had been destined to the unsocial limits of a convent during this period, I should have understood it ; or if she had been prohibited from ever marrying at all, and given up in full property to the public, I should have understood that too, though I might not approve ; but why, after having indulged a certain constitutional impulse, in spite of legal and religious restraint, she should next be given up to the dominion of that impulse, without any restraint

straint at all, for one whole year, before
 she can be allowed to attain a *purer*
state, is a matter to me of very high dif-
 ficulty, ~~and even open to some ludicrous~~
~~comment.~~ By what new name, my
 Lords, shall we distinguish this new
 condition of the sex, compounded thus
 of too much natural and too little
 legal capacity? *spinsters*, the members
 of this annual sisterhood cannot be
 called; nor *widows*, nor *married*, nor
single; but a sort of middle beings,
nymphs of a very equivocal sort in-
 deed, advancing in *legal* as they recede
 in *natural* purity, and disclosing, *then*
most, the natural rankness and licen-
 tiousness of their wing, when they are
 supposed, by your good Lordships, to
 be locked up in the solitary quietism of
 a legal transformation. Many curious
 cases,

cases, my Lords, of law and of conscience, may arise out of this new condition. If a lady, having lost the blush of modesty, *naturally competent* to-day, and *legally competent* to-morrow, should ——— but I will not moot cases on so delicate a point, lest I should expose myself to misconstructions. From levities of every kind, under the condition of addressing your Lordships, I hold myself obliged to abstain.

Will your Lordships allow me to observe, that legislation is an undertaking of great difficulty and hazard? So great, that I am much inclined to think that there never was a good law made upon speculation only. Necessity, my Lords, is our only law-maker. Every new regulation ought, perhaps, to be loudly and universally called for, nine years at least, before it is instituted into law; and
the

the remedy be allowed, perhaps, to grow naturally out of the evil, and take some shape and apparency in the public eye, previous to its final legitimation. Many inferences, my Lords, may be drawn, necessarily drawn, and many constructions made, necessarily made, beyond the letter of the act, or the intentions of the maker. In the present case, my Lords, I doubt,——nay I do not believe, that your Lordships look to the whole operation of this very Bill. I do not believe, my Lords, because, believing, I should not approve. With respect to *reformation*, my Lords, your Lordships great object, I have ventured to suggest, that it will have no effectual operation; but it *will operate*, my Lords, not against the criminal parties, but against the *innocent*; and,

The

The child shall rue, which is unborn,
The statute of the day.

Your Lordships *prohibit the marriage of the criminal parties*; but the lady, like the mother of the unfortunate *Savage*, may be pregnant by her abuser at the period of her divorce. Your Lordships Bill, like that unnatural mother, refuses legitimation to the child; it goes further, my Lords, and refuses legitimation to every other child by the same parents. But supposing, as is most likely to happen, that the lady, in consequence of her divorce, should immediately console herself with a new associate, and should become pregnant during the first three months of her intercourse;—~~but~~ your Lordships Bill prohibits the lady from *any marriage whatever for the space of twelve calendar months*;

months;—it refuses legitimation, therefore, to this child likewise, and refuses a father, who is not the object of your Bill, the right of legitimating his own offspring. Strange! that a Bill to prevent Adultery, should operate against a father not guilty of the supposed offence; and, stranger still, against a child not guilty of any offence whatever. But, as to these ^{last} effects, I doubt the operation of your Lordships Bill. If the lady marries within the prohibited period, she will, I believe, by her own actual disobedience, remove the imputed offence and disqualification of her child; at least this may be matter hereafter of high and expensive litigation, which is in itself a great evil.

Now, my Lords, I beg leave to demand, with great deference and respect
towards

towards your Lordships, upon what principle these disqualifications, as respecting the unborn infants, can be supported? If we have heard, my Lords, in a theocracy, of the *sins of the fathers being visited upon the children*, we have heard of a legislation which did not require the aid or concurrence of human law; of a dispensation neither calculated for our understanding or imitation. The union between the sexes, my Lords, appears, as relative to its effect, to be a mere physical process, and independent of any *moral*, considered as subsisting between the parties; and accordingly, in conformity with this appearance, we find the produce of the most illicit concurrence to be as perfect and as compact in body and in mind, *as honest madam's issue*. Let the parties answer the crime;
 the

the offspring stands, as far as we can judge, undebased, untainted, independent, and alone. Why therefore it should be refused the right of legitimation, if the parents are willing and able to give it, seems very hard to tell. If either of the parents are otherwise bound in marriage, it is an evil not to be helped. If they are within certain degrees of consanguinity, it is said, and I believe, that natural weakness or imperfection follows. If the parents refuse legitimation, the evil is with them. But your Lordships are now opening a new source of disqualification, founded upon positive law, independent of any moral or physical impediment whatever, and are visiting the sins of the parents, not in any degree, as I think, upon the parents themselves, but upon the innocent ^{progeny} offspring

and close up the source of their

of a *process*, the immorality of which does not concern them, and in which they may boldly stand up as witnesses and declare, that there was no *physical error* whatever.

I have now detained your Lordships perhaps too long; yet am very desirous of drawing your attentions a moment longer. Will you permit me, my Lords? You may find yourselves interested in the matter.

There is, as your Lordships well know, a great deal of good instruction in old fable. The Hydra, my Lords, was a monster with many heads and one body: it was one of the labours, your Lordships remember, of a Hercules to destroy it. From the excision of *one* head sprung *many*. It became necessary, therefore, to crush them all at one adventure, and close up the source of their increase

increase with fire. To translate this fiction into truth:—The vices, my Lords, have always been observed to approach together: they have therefore a *hundred heads*. But one general cause will be found to produce them all: they will then have but *one body*. To suppress an effect, the cause subsisting, is only to force it into various modifications. From the vital support of one head, says the fable, may be produced *many*. To effect reformation, we must endeavour with zeal and force to exterminate the common cause, and destroy the seeds of evil; that is, we must take up the torch and the club, and attack and subdue at once the whole complicated monster. My Lord of Landaff has affirmed, that

that there have been more divorces for Adultery within these last eighteen years, than during the whole preceding period of our political existence. Dreadful to relate! but surely, my Lords, not very strange, considered as relative to this one point, when we know that there has been the like increase, in spite of great example, of all other vices, during the same period. Fraud, and licentiousness of every form; perfidy, gaming, extortion. But why should I call these, and a thousand other familiar vices, by their names? Their names, my Lords, I am afraid, have lost their accustomed force, and no longer excite sensations of disgust and horror. Yet let me name to your Lordships that destroying Corruption which is said to attach us all; to

poison

~~poison the fountains of justice and of~~
~~liberty, and to destroy all the great ends~~
 of our political existence.

Thus circumstanced, permit me, my Lords, to enquire why your Lordships come forth with a paper switch, as it were, in your hands, to assail Adultery only? the softest and gentlest iniquity of the groupe, friendless too, and without any defences, but a few insidious smiles, and more insidious tears. Why not, my Lords, in the true spirit of heroic adventure, take up the Herculean club, wreathed in your hands of spiritual, as well as temporal power? Why not manfully invest yourselves with the lion's skin, and boldly encounter that foul Corruption which threatens to offend you on your very seats, and stain

even your lawns with dishonour? If, therefore, my Lords, you ambition immortality, using the word in a Christian as well as Pagan sense, take up the club, and conquer. But placed on high is the meed of virtue, and difficult the ascent, and hard to attain. Your Lordships will, without doubt, contemplate the adventure.—A little skirmishing in the rear of vice, I can assure your Lordships, will not avail: you must boldly meet her in her strength, and offer yourselves to all the hazards and fatigues of battle. *Not so*, may your Lordships perhaps say; *yet a little good ye may do, proportioned to your little means, and not without a proper and prudent regard to your own ease and safety.* Under such a disposition, if such shall prevail, I, for my own part, could wish
your

your Lordships not to bestir yourselves at all, but consult your ease and safety *altogether*. You will only, my Lords, in my humble opinion, and according to the fable, *multiply evil*, and disturb the natural order and progress of things.

I will endeavour to explain to your Lordships, and in a few words, why so many enormities have arisen just at this period, and all together. *Without doing this*, my Lords, *distinctly and clearly*, I have written and fabled in vain.

Nature, we all know, has furnished man with *impulses of self-love*, which pushing him beyond a certain *mean*, involve him in vices; she has also furnished him with *controuls*, both within and without his constitution, to balance these impulses and prevent their excess. Out of different governments arise dif-

ferent controuls: in a mixed or free state, the great controul is in *the power of the people*;—*public trust* cannot be obtained without *popularity*;—*popularity* cannot be obtained without *character*;—*character* cannot be obtained but by a conformity of manners and conduct to *public opinion*;—*public opinion* is always in favour of *virtue*; and thus *virtue itself* becomes necessary, and *vice*, of course, discountenanced and despised. Such must be for ever the effect of popular election and democratic influence.

Now, my Lords, though I confess that the democracy of this country was nearly extinguished before the commencement of the era marked out by my Lord of Landaff, yet there was, however, an opinion of its existence, and so long it had the effect of a controul; but very

early in this era it became manifest, from the natural unfolding of things, that there was in truth no democratic interest in the state, but that the members of the Lower House might be considered as having a property in their seats, and as sitting in their own right, and not as the agents and representatives of others: and thus, my Lords, on the sudden inertion of an ancient interest, were all the old controuls taken off, as it were in a day, and at a time, too, when a very great accession of wealth and of empire had created new temptations, requiring more controul than ever: nor were there, nor could there be any other controuls of any sort substituted at this period, in the place of those which were thus done away. The consequence was, that the Hydra Vice

raised up at once her hundred heads,
 spreading universal ravage and dismay.
 Your Lordships must remember, that
 all former habits, all sentiment, all prin-
 ciple, all public affections, were gene-
 rally derided and despised; and, every
 impulse being thus let loose, every con-
 trol broken down, that public and
 private virtue gave way at once, and
 one universal profligacy involved and
 covered all. Since which, we have only
 had leisure to arrange these profligacies
 into sorts, to contemplate their different
 features, and to settle their various
 characters and names: among whom
 your Lordships have now singled out
 that hooded serpent, the sleek and soft
 Adultery, as the object of your virtuous
 spleen and legislative rage.

But if various vices, my Lords, are
 thus

thus produced by one general cause, vain is it, we may perceive, for your Lordships to engage them in detail; you must grasp the ponderous club and the flaming torch, and destroy at once, by the most unremitting efforts, the whole monstrous incorporation. In plain English, my Lords, and without a fable, if your Lordships, disposed and impelled by the sanctity of your characters, are zealous and sincere in the cause of public and private virtue,—and I am sure, my Lords, that I know not why it should be otherwise;—if, urged by generous and religious motives, you wisely look to temporal honour and eternal reward—I shall feel myself justified in saying, that you must run the whole length of duty, and labour without ceasing, to restore the ancient controuls,

controuls, and revive the dying energy of the constitution.

More frequent elections, by more numerous electors, is evidently the *renovating principle*; but in the mean time, my Lords, and until this renovation can be made, and ripen into effect, your Lordships must stand on your own separate virtue; you must substitute yourselves, my Lords, with such aid and countenance as your Lordships may well hope to obtain, in the place of a constitution; you must labour to preserve unbroken the external form of things, in order to attend the return of that principle, which may once again re-animate the whole; you must combat the corruption of the times through all its forms; you must endeavour, in your sphere, to give limits and integrity to

to finance; and you must labour to reunite the empire, and compact the whole on the true principles of the constitution, which will be found to be those of mutual controul, of common interest, and universal moderation. — But some *occasional reader* may smile, perhaps, and be ready, upon a view of causes and effects, to excuse your Lordships from *so* hopeless a toil. Your Lordships, however, know, and can instruct the world, that it is *motive* and *endeavour* which constitute virtue, and not *success*. Success, your Lordships are aware, is at best but *happiness*, and in this case, the happiness of others rather than your own.

But why should I suggest the idea of *hopeless* toil? your Lordships, as individuals, are highly respectable, and entitled
to

to very great consideration; but you are also *many*, my Lords, and may combine into a *Hercules*. I ought indeed rather, from my own view of things, to augur facility than toil; and many a motive, and many a hope could I suggest, if it were proper and decent to urge your Lordships by any other than what more peculiarly grow out of your condition. You are ready, I am persuaded, my Lords, to act, to exhort, and to advise; you are called upon, my Lords, in your temporal as well as spiritual characters, you have been charged, my Lords, licentiously charged, with being a *dead weight* in the hands of ministers; refute the scandal, and be a *living energy* in the bosom of your country. How infinitely becoming, to say no more, would be your interference? what honour

now would you not reflect back on the
 predecessors of your order? what glory
 would you not obtain for yourselves, and
 transmit to the latest succession? Other
 and higher considerations it becomes me
 to leave to your Lordships. — But yet,
 my Lords, — and notwithstanding — if —
 and why — and wherefore — a licentious
 age, a corrupt generation — a daring and
 desperate faction — wild disorder — whole-
 some restraint, and legal liberty, &c. &c.
 — Why, then, my Lords, — and with the
 most profound respect, — and without fur-
 ther pressing upon your Lordships, I will
 only venture, and in very few words,
 to trace out for your Lordships' con-
 sideration, that progression which it may
 not possibly be altogether prudent in your
 Lordships to disturb. The present pro-
 fligacies which your Lordships do much
 lament,

lament, will, under the influences, which have produced them, daily and hourly increase, till at length they beget, by their excess, the strong controul of absolute and despotick power; a power, my Lords, which, *so begotten*, must assume the harshest and most ferocious form.— Such, my Lords, is the course of human affairs.— Excess of profligacy must be controuled by excess of power. It is not a pleasant idea, I know, to your Lordships; but though the extreme of this power be certainly an evil in itself, it will controul, your Lordships will remember, a *much greater*; and, if your Lordships can think of no other remedy, it may not be proper, perhaps, in your Lordships to disturb the process by bills, ill calculated for delay.

I know, my Lords, however,—I perfectly

fectly agree with your Lordships, that the remedy may be productive of considerable inconvenience, and most to those, perhaps, who by a fatal necessity may become the administrators of it. *Empire* will undoubtedly be lost, wholly lost, beyond the limits of this island, and *commerce*, and *arts*, and *learning* will be no more. These are things which, I am sure, your good Lordships must greatly regret. But what shall one say?—the evils, my Lords, which we will not endeavour to prevent, we should meekly and piously learn to bear. *But is there no middle way, I said?* may your Lordships anxiously exclaim. —Between what, my Lords? *Despotism*, in whatever hands, and the insolence of a *rabble*? Doubtless, my Lords; what else was meant by the institution of three distinct powers in the state, and of va-
rious

*From hence I suppose it is that his grace
 has been so absent. But the Duke of
 York was with me of the first judges in
 the world.*

rious other establishments, civil and ecclesiastical, but to controul these extremes, and reduce them to *a mean*, in which the perfection of the English government was placed; *But this brings us back to the old point, and infers the actual existence of a popular power.* Doubtless, my Lords; you would not seek a middle way between something on the one side, and nothing on the other.

But is there no middle way, then, may my occasional reader demand, between the extremes of profligacy and virtue? But how came this officious gentleman to assume, that there can be an extreme in virtue? He may quote history, perhaps, and affirm, that the rape of the Sabine women, the assassination of Por-
Anna, the murder of *Virginia*, and other extravagancies, were such acts of im-
 puted

puted virtue, as met in their *effects* the *extreme of profligacy*. The answer is short:—Every government in the world must produce manners correspondent to itself, and which, contributing to the support of such government, are dignified, of course, within the limits of that government, with the name of virtue.

The Roman government was very imperfectly constituted, and produced, of course, *manners* very extravagant and wild. But so excellently constituted was that of England, and so checked from extremes of every sort, that the manners resulting from it were, in conformity to the government itself, *a perfect mean*; in which, doubtless, all moral excellence is placed. And from hence was derived this great felicity, that public manners

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and

and private virtue, sober reason and true religion, could all meet in one point, and concur and operate together.

But By the word *virtue*, I suppose, this gentleman must mean *national manners*; for an *extreme of real virtue* is, to use a very plain word, perfect nonsense. It is melting of pure gold into alloy, or hardening diamonds into softness, or any other contradiction we please. But neither of manners is there, properly speaking, an extreme. Referred to reason or religion, they may, abstractedly considered, be extravagant, or wrong; but referred to their proper standard, government, they are natural and right.

The government, then, may be in some extreme? True, it may be very ill constituted; but it may be very dangerous to innovate, for all that, lest, through the medium

medium of profligacy it may fall, necessarily fall, upon another extreme, altogether as bad. If the gentleman thinks he can bring the English government to rest upon better principles, that is another thing : but I shall excuse myself from entering into any dispute upon that question.

But of profligacy? True ; it is, I affirm, no part of national manners, nor is there any common point of union betwixt them. When we can find a fixed point between government and no government, then, and not till then, may we find a middle way between profligacy and national manners.

This gentleman is to learn, that profligacy is not the correspondent manners of any government whatever. Profligacy infers the ~~previous~~ *dissolution*, ~~and not the~~

~~support~~, of government. ~~It cannot in-~~
 deed destroy despotism; but it will ren-
 der the condition of the despot very in-
 secure; and it is therefore his interest to
 controul it.

The profligacy which has lately pre-
 vailed in England indicates, most ma-
 nifestly, the loss of some constituent
 part of our political frame; and the
 mode of that profligacy marks precisely
 the very loss we have sustained. The
 present manners, if I mistake not, are
 compounded of profligacy and meanness:
 a sure sign that we have at once lost a
Salutary
~~powerful~~ impulse, and a great controul.
Luxury is, I know, *the word*; but if
 luxury has any meaning distinct from
 the profligacy I speak of, and which I
 consider as an *effect* only, and not a
cause, let those conjure with it who
 can;

can ; it wholly exceeds my comprehension.

But this gentleman may perhaps have a further reach. Struck with the rapid progress of these strange vices, which have so suddenly broke in upon us, and hopeless of expelling them all together, he may possibly look to some *capitulation*, or some *treaty of partition*, or, perhaps, of *intercourse and peace*. But your Lordships will disdain a thought equally impracticable and base. Profligacies are of no country, of no habitation, or government ; a banditti only, spreading desolation every where, and thriving upon spoil : they who do not resist, are subdued ; neutrality is treason ; it is leaguings with the enemy ; it is going over to vice, and deserting the standards of our country.

We have already said, that there is no middle way; that point of perfection at which we ought to have stopped, is the only single point to which we should incessantly endeavour to return.

Much, my Lords, could I add in this place, not unworthy the attention perhaps of every order of the state, but I am writing a mere fugitive letter, and will abstain.

To return then to the gentleman. He may perhaps have found *some expedient*; it is but candid to hear him.—*If human perfection cannot be obtained.*—I only said, my Lords, that this should be the point of our endeavour.—*Well, but if our endeavours should appear hopeless and impracticable, is there no staying profligacy from that extreme which may require the controul of absolute and despotic power? is there no prevalence*

prevalence in Law, no power in Penalty, to limit and restrain?—Penalty and Law.

—I know, my Lords—for I will answer before your Lordships—that this word *Law* has been founded high: the English government has been defined, by great authority, to be a government of *Law*; whilst it has been my great unhappiness to conceive that *Law* was the *creature* only, and not the creator of government.

And another great person, of high dignity, not unknown to your Lordships, has gone yet further, and has given to *Law* a kind of independent subsistence, original and self-derived, with such super-eminent qualities, as to enable it, by some happy necessity in its nature, to beget Liberty, even on the body of Restraint. This appears strange to me, who have never conceived higher

of *Law*, than of an *instrument*, and sometimes, as it may well happen, and as in fact it often does happen, in *Morocco* and other states, as the instrument of the vilest passions of the worst of men.

But certain *severe penalties*, says the gentleman, may, without restoring the ancient popular controuls, be made, to limit the profligacies of the time, and supersede the necessity of a despotic power. — But, in my judgment, my Lords, there is not so great a space as this gentleman may conceive, between these *penalties*, considered as carried into *effect*, and a *despotic power*. Penalty, my Lords, even in any degree, partakes a little of the nature of despotism, that is, it substitutes *mere power* in the place of *natural and moral causes*.

Penal

Penal laws, my Lords, are but a *dead letter*, unless enforced by a *living and superintending power*; and that power which can give *effect* to such legal restraints as a general profligacy may require, wants very little, or perhaps nothing at all, my Lords, of being itself *despotic and above controul*. And thus, my Lords, may this gentleman's unhappy patient die under his hands, and, as it often happens, even of the very remedy itself.

I am free to confess, my Lords, that I have no great veneration for penal laws: they are in some cases necessary, even in the best government; but they should not stand alone, but always be found in the train of some *preventive institution*. Steel traps and spring guns, however promulgated in white or black letter, without some preventive high wall

wall or deterring ditch, are in my judgment nothing less than open malice and public murder. Penalties, my Lords, go, at the most, only to the *support of manners*, not to their *formation*. Manners, my Lords, it has been observed, are derived from the constitution of government, not from *law of any kind*. —Will your Lordships indulge me a moment?—Government may be defined to be such a relation among human beings associated together, and such a happy order and balanced condition of things, from which a *legislative* and *executive power* must naturally result; *this order* is, *then*, antecedent to *these powers*, and these powers only the *result*. Law again, my Lords, is but a *result of these powers*; from this supposed
antecedent

antecedent order was derived the *manners*, and the great end of legislation was to fix *this order*, and of course to preserve those manners from change. Now, my Lords, if the *manners* change, it is those original relations, or such institutions as have been long interwove with them, that are giving way, which are become defective, and which need reform. This reform the legislative power ought to make by its proper instrument, *the Law*. But I should doubt, in theory, my Lords, whether the legislature could honestly repeal this *original ORDER* from which *itself* was derived. But, passing this,—if, instead of resorting to general principles, the legislature will only endeavour to correct a *cause* by its *effect*, and *reform* by *punishing*, it will be such a reaction, which, if not pushed to a point incompatible

patible with every idea of liberal government, will be found in practice to be vain and without effect. We have already carried this matter, in theory, to its extreme, and have enacted such a variety of penal laws, as might make Japan tremble; but they are hitherto happily controuled and counteracted by a variety of causes, though not however without producing great misery and oppression, and without, as I think, the least reform. I am, I confess, so great a friend to *prevention*, and so little to *penalty*, that I am almost ready to concur with *Sancho*, who wished

To spare the thief who stole the purse away,
And hang the man who put it in his way.

And if, on occasion of our public executions, there was added to every twentieth sufferer,—not a fabricator of penalties,

ties, to be sure, my Lords, however flip-
pant in the trade, but a good substantial
Westminster justice, at the least, it might
go far to throw our legislators rather
upon *preventive than penal* laws.

But I have, perhaps, detained your
Lordships too long; and shall therefore
only add a short compendium.

Law, my Lords, is but an annuncia-
tion of the public *will*; but if that *will*
itself be corrupt—if the legislators them-
selves, in their private and public capa-
cities, be the great objects of necessary
reform—where is the remedy? Laws
will either not be made, or be made only
for mockery and evasion. Heretofore,
the people acted upon the legislature for
the best purposes, and taught them to
controul themselves. Hereafter, the le-
gislation may act upon the people for the
worst,

worst purposes, not to reform, but to dishonour, debase, and oppress. — In such a case, the multitude will be ready to tell themselves, that their least evil is their greatest good, and will see with pleasure arise, in the discretion of some despotic power, a firmer legislature, and a more equal law. This, my Lords, is the point to which national profligacy tends, and the point which we shall probably attain, without the powerful and extraordinary interposition of private virtue, exerting itself to restore a more balanced and rational order of things. From your Lordships, though not from your Lordships alone, one may hope for such an interposition. But, not to be the dupe of confidence,—if your Lordships should decline the labour, there will then be nothing left,
but

but to intreat your Lordships not to mis-spence your very valuable hours in weaving penal springes for vice, out of the rotten materials of a corrupt and decaying constitution. It will not only, my Lords, be vain and fruitless, as to its purposed end, but destructive of all future resource, by raising up a numerous and corrupt magistracy on the ruins of that popular interest, from which all generous government and noble impulse are primarily derived.

AND

AND thus, my Lords, you are in possession of sentiments, such as they are, at least very honestly and frankly given. The writer's first intention, my Lords, was only to convey to your Lordships' notice certain objections to such clauses of my Lord of Landaff's Bill as may have the effect of bastardizing infants, contrary, as he thinks, to the principles of good policy and natural justice. This he considered as a serious matter; the other parts of the Bill did not appear so important. The levities of the time seemed to him—he speaks fearfully—to render the provisions both light and erroneous: The Bill, my Lords, *supposes profligacy*; and yet *imposes shame*. But shame, my Lords, seems more likely, in a very short time, to change sides; and modest women, driven from every polite circle,

circle, be made to blush at their own virtue.

In considering these lighter parts, he has been, he fears, betrayed almost into a smile; but he has been conscious, notwithstanding, of the greatest respect for your Lordships' persons, and the highest veneration of your order.

The objections here referred to were intended to be conveyed through some public channel to your Lordships' notice, and out of respect to your Lordships, whilst the Bill remained under *your own* controul; this required dispatch; but learning since, that the commitment was delayed, he has found leisure, as your Lordships see, to run the whole length of this address.—Of the parts thus added, and which seem perhaps foreign to the Bill, he shall say nothing, but that

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they are well and honestly intended, and may be worth your Lordships' curiosity, if for nothing else, yet at least for this, that, being written in these times, and on a political subject, they however contain no party spirit whatever; indeed it is not possible that they should, for your Lordships will clearly discern thro' them, that the writer is rootedly of opinion, that not *men*, but general principles and institutions, govern the world, and that men, politically considered, are mere blind instruments, formed and disposed by causes external to themselves. —The writer, however, supposes very honourable exceptions, in all periods, of particular men, superior to the influences under which they live, and whose virtues and abilities may in nice moments give the most salutary direction to affairs.

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This opinion, my Lords, is not singular or new; it may be inferred from all political writing and conversation whatever, though perhaps, indeed, mingled with something too much of the *contrary*; for it is the common prudence or folly of the world, to be at the same time of opposite opinions, and civilly embrace both sides of a contradiction.

But having declared such opinion without any reserve before your Lordships, he hopes your Lordships will do him the justice to suppose that he thinks himself well instructed how to save out of this predicament, those principles in man, by which he becomes a moral agent and the subject of religion. He holds himself accountable to your Lord-

ships for any opinion which may seem to narrow the ground either of natural or revealed religion; he therefore hastens to inform your Lordships that he is taught, that man often unavoidably weak and ignorant is accountable beyond the grave for *sincerity* alone. Sincere obedience, says my Lord of Gloucester, to the supreme *will*, as interpreted by moral feeling and revealed religion, constitutes (he writes from memory only) *genuine and real virtue*. But these moral feelings, my Lords, may, under the influence of external impressions, vary within certain limits, not exceeding the natural condition of political government and human understanding. Within these points, my Lords, sincerity, visible only to the eye of Heaven, and belonging to
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the individual as such, may lead him through the fluctuation of national manners to his own peculiar justification and reward. As for profligacy, my Lords, it has not a reference to error but vice, and is derived not from the influence of peculiar institution, but the loss and dissolution of all, and is therefore, in its nature, of no long duration. From this condition of things, we have a right to look up for remedy to men set apart like your Lordships for the preservation of public morals; and who, being in this country invested with political as well as religious power, we may well expect should apply all the means with which you are intrusted, both towards the maintenance and restoration of public and private virtue. The writer, my Lords,

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may be in an error, but he claims the protection of that sincerity, which at least cannot be construed into offence.

For the rest, my Lords, he joins with others in applauding your Lordships' pious zeal against the very pernicious crime of Adultery; but must, notwithstanding, express his wonder, that, at a time when we might expect to see your Lordships upholding and restoring the great fortress of public liberty and virtue—when we might expect to find you, under the *banner* ~~standard~~ of the constitution, declaring war against all the associated powers of invading profligacy and vice,—that we should yet find your Lordships, at such a time, engaged in puny battle with this single transgression; which, I am ashamed

to say, may yet baffle and elude, by a thousand arts and evasions, and with the aid of many kindred vices, your best and most generous endeavour.

I am,

My Lords,

&c. &c. &c.

F I N I S.

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to say may yet battle and elude, by
thousand arts and evasions, and with
the aid of many kindred vices, your best
and most generous efforts.



My Lords,

Exc. Sec. Sec.

[Handwritten signature]

F. I. N. I. S.